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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,928	07/31/2003	Clifford Teoh	01-170 (US02)	9672
41696 7590 02/02/2011 VISTA IP LAW GROUP LLP 12930 Saratoga Avenue Suite D-2 Saratoga, CA 95070				
EXAMINER				
NGUYEN, VI X				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
02/02/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/631,928

**Applicant(s)**

TEOH ET AL.

**Examiner**

VICTOR X. NGUYEN

**Art Unit**

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-7,9,10,13-16,18,19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9,10,13-16,18,19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No.(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to the communication filed on 11/12/2010.

Claims 1, 10, 15, 21, 23 have been amended. Claims 1-2, 5-7, 9-10, 13-16, 18-19, 21-23 are pending in this present application.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-7, 9-10, 13-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Wallace 6,454,780.

Claim 1: Wallace discloses a method of occluding an aneurysm (col. 2, lines 66-67, col. 3, lines 1-12), the aneurysm having a neck and a sac, the method comprising: delivering a liner (64 and 66 are made of a liner) into the aneurysm, the liner having a proximal portion and a distal portion (see annotated below, fig. 7a- on page 7 of this Office Action), wherein the distal portion of the liner is more permeable than the proximal portion of the liner (it is noted that the distal portion has larger aperture which is inherently more permeable than the proximal portion which has smaller aperture), and allowing the liner to expand within the aneurysm to define a substantially spherical interior volume within the aneurysm. It is noted that item 64 and 66 are part of the liner which are known as a permeable liner sac that can be placed in the aneurysm and expands to occlude the aneurysm (see col. 11, lines 15-17, lines 35-36, lines 39-44) and wherein

the liner 64/66 is delivered so that the proximal portion of the liner extends across the aneurysm neck (fig. 7d) and the distal portion of the liner is positioned within the aneurysm sac (col. 11, lines 65-67), the liner defining a substantially spherical interior volume (it is noted that the aneurysm device 64/66 comprises a body that has a shape of a sphere which embolics can go through an opening in the proximal portion of the liner into the substantially spherical interior volume of the liner); and introducing embolics (col. 12, lines 3-7) through an opening in the proximal portion of the liner into the substantially spherical interior volume of the liner, wherein the distal portion of the liner allows preferential permeation of the embolics from the liner interior volume into the sac of the aneurysm (col. 12, lines 3-7).

Claims 2 and 7: Wallace discloses the liner comprised a biodegradable and biocompatible material (col. 7, lines 3-17), and where the liner distal portion (fig. 7a) comprises a liner portion supported by struts 68.

Claims 5 and 6: Wallace discloses the liner proximal portion (fig. 7a) comprises a liner portion supported by expandable struts 68, and where the liner distal portion comprises the struts free of any covering (fig. 7a).

Claims 9 and 10: Wallace discloses the liner portion comprised a shape memory polymer material (col. 10, lines 45-51) and further allowing the liner to expand which would actuate the shape memory polymer (fig. 7d, col. 11, lines 51-64).

Claims 13 and 14: Wallace discloses the proximal liner portion inhibits permeation of embolics from the liner interior into a parent blood vessel (col. 11, lines 39-44), and wherein the

delivering step is carried out using an elongated delivery member 16 releasably connected to the liner 64/66

Claim 15: Wallace discloses an assembly for treating an aneurysm (col. 2, lines 66-67, col. 3, lines 1-12), the aneurysm having a neck and a sac, comprising: a liner 64/66 having a proximal portion and a distal portion (see an noted below, fig. 7a), and defining an substantially spherical interior volume (it is noted that the aneurysm device 64 comprises a body that has a shape of a sphere which embolics can go through an opening in the proximal portion of the liner into the substantially spherical interior volume of the liner) within the proximal and distal portions; wherein the distal portion has perforations sized to permeate embolics and is more permeable than the proximal portion (it is noted that the distal portion has larger aperture which is inherently more permeable than the proximal portion which has smaller aperture), such that the distal portion preferentially permeates embolics from the substantially spherical interior volume into the aneurysm sac, and an elongated delivery member 16 releasably connected to the liner 64.

Claim 16: Wallace discloses the liner comprised a biodegradable and biocompatible material (col. 7, lines 3-17).

Claim 18: Wallace discloses the liner proximal portion has perforations sized to permeate blood but to inhibit permeation of embolics (it is noted that the proximal portion which has smaller aperture which inherently has perforations sized to permeate blood but to inhibit permeation of embolics, fig. 7a).

Claim 19: Wallace discloses the liner proximal portion (fig. 7a) comprises a liner portion supported by expandable struts 68.

Claim 21: Wallace discloses the distal portion of the liner is supported by the expandable struts 68.

Claims 22 and 23: Wallace discloses the liner portion comprised a shape memory polymer material (col. 10, lines 45-51) and further comprising actuating the shape memory polymer between a first low profile delivery configuration (fig. 7c) wherein it confines the struts 68 to the low profile configuration into a second relaxed, expanded configuration (fig. 7d, col. 11, lines 51-64).

### **Response to Arguments**

3. Applicant's arguments filed 5/14/2010 have been fully considered but they are not persuasive. Applicant states that Wallace fails to suggest a method of occluding an aneurysm. Examiner disagrees. In fact, as seen in col. 1, lines 8-10; col. 2, lines 66-67 and col. 3, lines 1-12 clearly disclose that such method of occluding aneurysm is suggested by Wallace.

The applicant argues that the method of Wallace does not disclose "allowing the liner to expand to define a substantially spherical interior volume within the aneurysm... and introducing embolics... into the spherical interior volume of the liner. The examiner disagrees. It is noted that annotated below fig. 7a discloses such embolics introduced through an opening in the proximal portion of the liner into a substantially spherical interior volume of the liner (it is noted that the aneurysm device 64 comprises a body that has a shape of a sphere which embolics can go through an opening in the proximal portion of the liner into the substantially spherical

interior volume of the liner) (see col. 12, lines 3-4 and wherein the distal portion of the liner allows preferential permeation of the embolics from the liner interior volume into the sac of the aneurysm and it is noted that item 64 and 66 are part of the liner which are known as a permeable liner sac that can be placed in the aneurysm and expands to occlude the aneurysm (see col. 11, lines 15-17, lines 35-36, lines 39-44). Furthermore, the act of preferential permeation of the embolics from a liner interior volume into the aneurysm is possible in Wallace, since fig. 7a discloses aneurysm obstruction device 64 having parachute configuration or a spherical configuration which has an interior volume. Fig. 7d illustrates the deployment device 64 within an aneurysm 50 and wherein an embolic agent or other treatment agent can be delivered (see col. 12, lines 3-4) into the sac of aneurysm which does form an interior volume. Regarding the amended claim 15 in the apparatus claim merely adds functional limitations “wherein the distal portion has perforations sized to permeate embolics”. It is noted that a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. In re Fuller, 1929 C.D. 172; 388 O.G. 279. In this case, Wallace discloses the liner distal portion has perforations sized to permeate embolics (it is noted that the distal portion has larger aperture which inherently has perforations sized to permeate embolics, fig. 7a). Thus these arguments are not convincing and the rejection has been maintained.

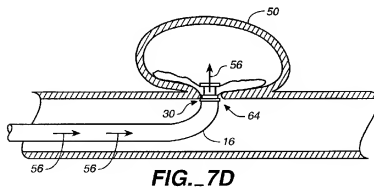
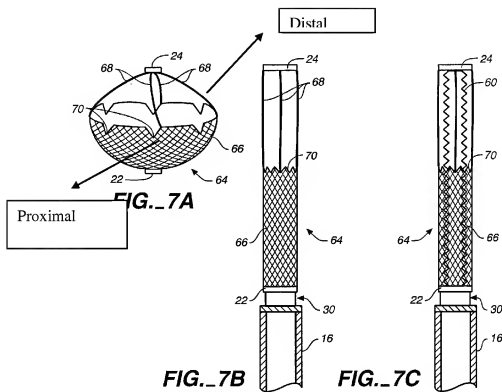
**Page 7 below is part of this Office Action:**

U.S. Patent

Sep. 24, 2002

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**Conclusion**

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **VICTOR X. NGUYEN** whose telephone number is (571)272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor X Nguyen/  
Examiner, Art Unit 3731

/(Jackie) Tan-Uyen T. Ho/  
Supervisory Patent Examiner, Art Unit 3773